CITY OF OREM
SPECIAL MEETING
Senior Friendship Center
93 North 400 East, Orem, UT 84058
June 5, 2014

This meeting was for discussion purposes only. No action was taken.

MODERATOR	Steve Shallenberger
OREM ELECTED OFFICIALS	Mayor Richard F. Brunst, Jr. and Councilmembers Hans Andersen, Margaret Black, Tom Macdonald Mark E. Seastrand, David Spencer, and Brent Sumner
OREM STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Steven Downs, Assistant to the City Manager; Scott Gurney, Interim Public Safety Director; Karl Hirst, Recreation Director; Richard Manning, Administrative Services Director; Bill Bell, Development Services Director; Charlene Crozier, Library Director; Brandon Nelson, Accounting Division Manager; and Taraleigh Gray, Deputy City Recorder
MAQUARIE CAPTIAL STAFF	Duncan Ramage
FIRST SOLUTIONS STAFF	Mike Lee

SCHEDULED ITEMS

5:00 P.M. SPECIAL CITY COUNCIL MEETING

Welcome and Introductions

Steve Shallenberger, moderator, welcomed those in attendance at the meeting.

Robert Andersen led the audience in the pledge.

Mr. Shallenberger said the purpose of the meeting was to better understand Macquarie's proposal as a community, and to better understand the depth and breadth of the presentation. Mr. Shallenberger gave an overview of the meeting agenda.

Frequently Asked Questions – Macquarie Representatives

Duncan Ramage said his presentation would provide the citizens with a birds-eye view that framed Macquarie's proposal. Mr. Ramage gave background on Macquarie Capital and its partners Black & Veatch, Fujitsu, Corning, and Alcatel Lucent.

Mr. Ramage said the Milestone One report was essentially a feasibility study, where the purpose and focus was to get a handle on the cost to complete the UTOPIA network build out.

Macquarie was interested in finding solutions to two problems:

1. The Future
   a. Underinvestment and dissatisfaction.
   b. Shake-up needed – people were paying too much for too little. Customer satisfaction would come from a competitive market.
2. The Current Dystopian Reality – The UTOPIA business was effectively bankrupt, and was facing $500 million in debt service over the next 24 years. UTOPIA had no adequate capital to maintain and refresh the network.
   a. The history – Much of UTOPIA's history was filled with failed deliveries.
   b. The unsustainable status quo.

Mr. Ramage identified Macquarie's following objectives:

1. Ubiquity
   a. Access for all – It would be cheaper to build out the network quickly.
   b. Scale – Building to scale would disrupt the status quo making other providers take notice and would allow the operating efficiencies to come to scale.
2. Open Access
   a. Choice – Would allow for customers to choose an ISP. An open-access model would allow anyone to traffic on the network.
   b. Competition – It would drive price. Markets analysis showed there was dramatic decrease in pricing when competitors enter. Internet speeds would increase because of competition. Businesses inhabited areas where good infrastructure was in place.
3. Economics
   a. Value for money
   b. Paying down the debt – Through the premium revenue sharing, the City would have an opportunity to pay down existing debt.

Mr. Ramage identified four alternatives in addressing the existent fiber network needs:

1. Status Quo
   a. More in financial losses
   b. More UTOPIA network outages
   c. Refresh costs – Unknown where funds would come from to pay refresh cost.
2. Go Dark
   a. Subscribers and ISPs – Unknown future for the 3,100 customers already using the network.
   b. No solution to the debt.
3. Sell the network
   a. To whom? For how much? Market value of the network did not equal current asset.
   b. First Digital proposal sealed – Macquarie had conducted its process in an open transparent manner.
   c. Objectives met? – Unclear if the objectives would be met if the network was sold.
4. Macquarie proposal
   a. Meets objectives

b. The price: UTILITY FEE

Mr. Ramage reaffirmed that Macquarie and the cities were discussing whether it was beneficial to move forward. Macquarie sought understanding to know if the cities were okay with the concept and willing to progress forward in order to work out more of the details.

Presentations and Cost Options – Lewis & Young

Laura Lewis, with Lewis & Young, presented an overview of the City's cost options in regard to UTOPIA and the proposed Public Private Partnership with Macquarie Capital.

Ms. Lewis reviewed the financial information on a cost-per-door basis in order to more adequately compare the proposed Macquarie utility fee with other cost options.

Ms. Lewis said Orem's combined totals from the UTOPIA debt (principle), the UTOPIA Current Swap Termination Value, and the UIA Debt (principle) totaled approximately $64.8 million.

Ms. Lewis said she intended to show amounts on a "per-address" basis to better compare current operation to the proposed utility fee as part of the Macquarie model. Under Orem's current principle obligations, Orem's total principle (less the swap) was $49,732,342. The annual amortized cost (at 5.5 percent over 25 years) was $3,707,514. There were 30,491 addresses in Orem. Given that information, Ms. Lewis reported that the annual amortized cost per address per month would be $10.31. That figure was representative of what Orem City was paying per-address from the general fund to meet annual UTOPIA and UIA principle obligations.

Ms. Lewis explored the "Why not just sell?" question. She reported that, from a financial standpoint, UTOPIA would not likely receive any more than fifty cents on the dollar should the asset be sold. In the case of the asset selling at 50 percent of the value, Orem would be left with over $36 million in debt principle with no UTOPIA assets after the sale.

Ms. Lewis translated the potential $36 million in debt principle to an annual amortized cost per address per month which amounted to $7.43. Ms. Lewis reiterated that in the case of selling the asset, the City would be left with considerable debt principle with no asset to show for it.

Ms. Lewis explored the option of turning off the system. She said if the system was to "go dark" then the cities would (1) stop funding the operational gap; (2) have no revenue to fund UIA debt; (3) be responsible to pay the annual debt service—Orem's UIA annual debt service would be $698,000 per year; (4) have to deal with UTOPIA and UIA contractual obligations which could lead to expensive litigation if obligations were left unmet; and (5) possibly be faced with other unknown expenses.

Ms. Lewis said maintaining the status quo would not address the concern that there was no consensus between all the cities to fund the operational shortfall. The UTOPIA staff was getting very lean, which could be an indicator that UTOPIA may slowly be going dark.

Ms. Lewis briefly discussed what would happen if Orem opted out of the Macquarie PPP. She prefaced by saying that opting out would bring about a complex issue. Orem would be responsible to make parity payment, which could have an impact of about $501,000 for Orem.

The fate would be unknown for Orem's 3,100 existing UTOPIA and UIA customers. The cost to serve existing customers would likely be no less than what Orem's operations and maintenance (O&M) assessment currently was, which was approximately $446,000, though that cost could be higher, as current O&M seemed inadequate for long-term needs. Orem would need to fund repair and replacement for the existing customers as well.

Ms. Lewis said opting out would provide no access to upselling revenue or premium revenue sharing, which the Macquarie model did provide for. Orem's reasonable range for this revenue sharing could be between $2.6 and $4.2 million annually, which could offset the fiber utility fee per address by $7.10-$11.50 per month.

Questions and Answers

Mr. Shallenberger read the following questions which had been submitted by the public prior to the meeting. The questions were answered accordingly.

Who would ultimately be making the decision on the partnership? Would it be a public vote or decided by elected City officials? What would moving on to Milestone Two mean?

> Mr. Ramage said the cities would make the decision. Milestone two was about committing to explore the proposal further, with the ultimate goal of arriving at an agreement between Macquarie, UTOPIA, and the eleven cities.
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> Mayor Brunst said the Orem City Council would decide on June 26, 2014.
>
> Mrs. Black said that was the legal way to make the decision.

What was the responsibility of Macquarie / UTOPIA under the proposal and what responsibility would be left to the internet providers?

> Mr. Ramage said Macquarie would form an entity that would build out each address, operate, refresh, and maintain the network to predefined performance metrics for thirty years. If Macquarie failed to perform, then Macquarie would lose its investment. The ISPs would continue to do what they did. The ISPs would be responsible for facing the customers. There were network demarcation points, where Macquarie's responsibility stopped, which was outside of the home. The ISPs would take the service from outside to the inside and would make sure the customers had a good experience.
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> Mr. Ramage added that he had failed to mention and explain the upsell services in his initial presentation of the evening. He said if the customer chose to upgrade from the free service, the ISPs would charge a fee for the premium services from which a chunk would go to network and a chunk would go back to the cities by way of a revenue sharing mechanism. That mechanism would help defray debt and would give the ISPs access to all customers.

Would the deal build out fiber directly to citizens' homes? Or would there be nodes close by with copper then running to the citizens' house? If so, what advantage was there for citizens to have Macquarie's fiber network extended to the home?

Mike Lee, First Solutions, prefaced his answer by explaining the benefits of fiber over a wireless network. He said exclusive wireless service efficiencies were much less compared to that of a physical wired infrastructure. Wired infrastructure had a significantly higher capacity and bandwidth capability over the wireless counterpart. In response to the question, Mr. Lee said if there was a short run of copper from the outside of the home to the inside of the home, the customer would not be able to notice a difference in speed.

In regard to the utility fee, which was understood to be $18-$20 per address per month which would be adjusted annually, was the fee charged only to homes that used the service? Or was the fee assessed to everyone, whether or not the fiber service was used?

Mr. Ramage said potentially the fee would be assessed on every address. That was the only way the model would work. The cities would have the discretion to address means of relief for the poor or elderly, but the availability payment would be the same.

At what point was Orem's responsibility complete?

Mr. Ramage said Macquarie's proposal was effectively a service contract for thirty years, much like a garbage contract. Orem's responsibility would be the availability payment over the thirty-year partnership.

Many senior homeowners did not have internet, and did not want it; was it correct that the citizens would be charged for services that may not be used?

Mr. Ramage said it was up to the customer to use the basic free service or not. Regardless, the cities would still be responsible for the availability payment, which would come from the assessed utility fee.

Why was there no option to opt out? Would the model work without it being mandatory for all residents?

Mr. Ramage said the model would not work with an opt-out option. Financial lenders would not lend and investors would not invest in the proposal if there was an opt-out option.

Why was there a 20GB monthly cap on the basic service?

Mr. Ramage said a certain balance had to be struck. Macquarie was asking the ISPs to provide the basic service for free, and with that Macquarie needed to provide the right point to incent people to upgrade. While 20GB was enough to do a number of things, there had to be a point where the customer would have to upgrade. The 20GB point was identified as that point, through the feasibility conducted in Milestone One.

Mr. Lee added that reaching the 20GB cap would not shut off service but would effectively throttle speeds down enough to only do email and light browsing.

What percentage of schools were connected to UTOPIA? Would most schools share a single 1Gbps connection, multiple connections, or a 10Gbps connection?

Mr. Lee said a number of schools were using the network and were being rebated by the government similar to a subsidy.

When was the soonest time citizens could expect to have the fiber installed in the homes? How many months would citizens be paying a monthly utility fee without having the service? Would the citizens not be billed until service reached the home?

Mr. Ramage said there would be a six-month grace period and customers would not be billed until the service reached the home. Macquarie was planning on a thirty-month roll-out, though the direct design of the roll-out had not been established. Mr. Ramage said it would make sense to first connect the customers where fiber was already to the curb but not to the house. Mr. Ramage said Macquarie would like to close the deal and begin building by the end of the 2014 calendar year.

How would the deal affect existing UTOPIA customers? Would they expect to see bills go up or down for the same service? Or could citizens expect service to go up with little or no increase to cost?

Mr. Ramage said there were two types of existing customers: Legacy customers and UIA customers. UTOPIA customers paid $12 per month for a connection fee. Macquarie would be replacing that fee with the utility fee. Existing customers would be rolled on to the new program but pricing should not change. Existing UIA customers may well get a rebate for their connection fees, but those parameters had not yet been determined.

If the City decided not to go forward with the proposal, but UTOPIA/Macquarie still formed the partnership, how would that affect Orem?

Mr. Ramage said there was a point at which if too many of the cities did not participate the model would not work. If all the other cities participated and Orem did not, then the existing customers would have to work out the details with Orem regarding Orem's percentage of existing assets.

Mr. Davidson said it was appropriate to note the relationship Orem was pursuing was a partnership, and the details of the partnership were being negotiated and discussed. If Orem chose not to proceed, the nature would change from partnership to contractual. Terms of that potential contractual agreement were yet to be negotiated. If Orem chose not to participate, it would also lose the opportunity to participate in and benefit from the proposed revenue sharing from upsell revenues.

Why was Macquarie unable to make the promise that the ubiquitous build could and would pay off the existing UPTOPIA debt?

Mr. Ramage replied the reason why was that it is not financeable. The exact revenue sharing arrangement was yet to be determined and would be covered in Milestone Two. Mr. Ramage estimated that at least half would go to cities.

If the City entered into the partnership and the citizens decided to protest the mandatory utility fee and the City was unable to pay for the required payment, would other cities be required to pay for the for the City's availability payment?

Ms. Lewis said it would not.

It was stated that Macquarie expected that there could be lawsuits from the deal with UTOPIA. If UTOPIA happened to be the sole entity being sued, where would the money come to fight the impending lawsuits that could be filed against UTOPIA? If UTOPIA lost a lawsuit, where would the funds to pay the damages come from?

Mr. Ramage said any potential law suits would likely come from the incumbent service providers. No lawsuit had come forth, but there was no absolute certainty that Macquarie would not be challenged. Mr. Ramage said that, regardless, it was Macquarie's risk to face. However, if UTOPIA was sued for something prior to the Macquarie transaction, then UTOPIA would assume the risk.

What would happen to Orem's future if it was the only large city in the county without fiber? How would it affect business and economic development?

Mr. Ramage said there was a measureable and significant increase in economic activity in cities that did have fiber. A lot of businesses consider fiber infrastructure as a necessity. Businesses tend to flock to areas where business needs can be met, and businesses considered fiber infrastructure as one of those needs.

If Orem did not participate with Macquarie, how else could fiber get to Orem?

Mr. Ramage said there were alternatives the cities could pursue. He said it was expensive to build out the network. It only made economic sense to build a scaled network. Not a lot of people were willing to spend the necessary money to complete the build-out with intent to refresh, maintain, and operate the network.

Is the current bonded indebtedness rolled into the Macquarie proposal?

Ms. Lewis said the short answer was no; if it were, the utility fee per address would go up. The city could utilize the premium revenues to go toward paying the debt.

Mr. Ramage said Macquarie would be providing a contract up front, and it would not be coming back for more money in the future. Macquarie was making a $300 million investment, and if Macquarie did not perform to the expectations lined out in the contract, then Macquarie would lose its investment.

Mayor Brunst added that the construction costs were what Macquarie was risking, but Macquarie would be held to perform as agreed.

Mr. Ramage said the cost to Macquarie would be to run and refresh the network, and would include the cost to finance. Macquarie's model was cost driven; it really could do it cheaper than anyone else could. Mr. Ramage also said that at the end of the thirty-year partnership, the cities would get the asset back.

Mr. Shallenberger said the City Council would decide whether or not to move forward with Milestone Two at the City Council meeting scheduled on June 26, 2014. Mr. Shallenberger asked if Mr. Ramage had anything to add.

Mr. Ramage said Milestone Two was about getting the paper part of the proposal done; it would take approximately two to three months to that work completed. At the end of Milestone Two, the cities would have the option to move forward to Milestone Three, which covered the finalization of the paperwork.

Mayor Brunst said there was a survey for opinions that would be sent out to Orem citizens.

Mr. Davidson said it was important that residents understood what decision would be made on June 26, 2014. The City Council would make a determination on whether or not to move forward in the evaluation process of the purposed public/private partnership. June 26, 2014 represented the end of phase one in the process.

Time was allotted for residents in attendance that had questions about the proposal to come forward.

Bonnie Pence asked about the $20 fee and said many Orem residents were on fixed incomes. She asked how the residents of Orem would know if the fiber would still be an asset in 30 years.

Mr. Davidson said the City currently provided a number of services to the residents of Orem. There was an expectation, by way of the City, that when services were provided then payment would be made. There were a variety of services that citizens did not necessarily directly benefit from but had the opportunity to pay for, which included education, park pavilions, library use, public safety services, and so on. The wide array of services was made available in the event that the residents wanted access to them. Mr. Davidson said these services were all part of the "quality of life" package the City provided to the residents.

Mr. Ramage replied to Ms. Pence's question about the worth of fiber down the road. There were many indications that fiber would still be a valued resource in thirty years. Fiber was essentially light speed, and was fundamentally "future" proof. Mr. Ramage added that all wireless of the day went to ground to a fiber infrastructure, and it was unlikely that wireless would be replacing fiber, as wireless service was often backed up by fiber infrastructure.

Kate Barker asked about the copper on the inside of the home.

Mr. Ramage said the Macquarie model dictated a protocol that the customer would not pay for connection. The ISPs would be responsible for the connection to the end users. Mr. Ramage added that in the event that copper was used in the connection from outside the home to the inside of the home, the copper would not negate the speed or efficiency of the fiber.

Bill Parker asked for clarification on the utility tax for the UIA customers who had paid off their connection lien.

Mr. Ramage said the assumption was those who paid off the lien would stay as they were, with no utility fee. It was speculated that a rebate of $2,700 would be given over time, which would go against the utility fee; exact plans of that nature had not yet been decided.

Ray Carrol asked why the model was patterned with milestones, and why a thirty-year relationship was defined.

Mr. Ramage said Macquarie's approach was entirely open book. Macquarie was being completely transparent in its processes. The process by which Macquarie was operating was one that the company had used over and over in the past.

Mr. Shallenberger added that the process was a set process that would be navigated in stages.

Mr. Davidson said great efforts had been made to reach out and inform the residents on the proposal. He added that elected officials wanted this to be a transparent process.

James Brown said he was concerned accountability would not go all the way down to the home. He asked for assurance that the service guarantees would travel all the way down to the home owners.

Mr. Ramage said Macquarie would guarantee the service to the outside of the house, per contract, with penalties for it not reaching that point. It would then be the responsibly of the ISP to carry service to the inside of the house, but even this responsibility frankly flowed back to Macquarie.

Sam Lentz asked what Macquarie could offer to those who did not want internet service.

Mr. Ramage said Veracity could add a phone line for about $8, so customers could be all in with Internet and phone service for $25-$30.

An unnamed citizen asked what the risks were to the cities for moving on with Milestone Two.

Mr. Ramage said the risk would be a legal risk as lawyers were not cheap. The predevelopment agreement stimulated the cost of Milestone Two, but Macquarie could have to redefine the costs to bring more work into the Milestone Two process. However, the overall cost would not increase.

Mr. Davidson said Orem's commitment for Milestone One was $100,000, and the commitment for Milestone Two would be $300,000. However, the City would only need to repay the cost should the City cease to move forward with the partnership.

Dave Shaw, UTOPIA legal staff, added that the cost was born by Macquarie. In the event that any of the cities elected to not proceed, the cost the cities would pay would be reimbursement cost. There were no upfront costs for the cities to embark on the Milestone process.

Floyd Ostler asked what assurances were available to the citizens in the event of any change.

Mr. Ramage said there were no concrete assurances available. He reaffirmed that fiber was a "future" proof infrastructure resource, and there were significant indications that fiber would be utilized for a relatively long time. Fiber would hold up, however, the electronics on either end of the line would have to be refreshed and upgraded with time.

Warren Daniel asked the Council to address where the money would be going.

Mr. Ramage said the rest of costs related to operating the network. He equated it to owning a car and the need to put gas in the car.

John Hendricks asked about transport fees being applied to the utility fee.

Mr. Davidson said he would defer to the City Council saying that was a policy discussion that could and would be had if there was opportunity to benefit from those fees. Revenues tied to upselling and remittance of revenues to the City would be up the City Council for allocation.

Gary Bascom said Macquarie was brave for accepting UTOPIA as a partner. He said he thought the City Council was doing a great harm to the community by imposing that the citizens accept the $20 fee.

Mr. Ramage said that, fundamentally, the model would break down if it turned to a full-on opt-out model. He restated that it was an issue of the Council to address the fee for the poor and elderly.

Ben Jenkins asked if the City Council thought what Macquarie was proposing was okay, and if it could go to a vote of the people.

Mayor Brunst said he would love to have it go to a vote of the people.

Mr. Clark asked where Macquarie would stop.

Mr. Lemkee said the infrastructure would be run to the outside of the home. The ISP would take over and connect into the home.

Tony Reid highlighted the positive aspects of fiber as an infrastructure and asked if there were any downsides to investing in the future. He said if Orem was not willing to invest in the future, then Orem was letting the future down.

Mr. Ramage said he agreed with Mr. Reid's statement.

Brent Parker asked why the basic service was kept to the low threshold of 3mbps.

Mr. Ramage said it was a difficult level to arrive at. It came down to assessing what was reasonable value for money for the $20. Macquarie needed make it the right level so the ISPs would still have a business. Mr. Ramage stated the ISP should not have to provide the basic service for free if the ISP did not have a good shot at upgrading customers.

Adjournment

Mayor Brunst thanked citizens for attending. Mr. Macdonald **moved** to adjourn the meeting. Mr. Andersen **seconded** the motion.

The meeting adjourned at 7:33 p.m.

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Donna R. Weaver, City Recorder

Approved: June 17, 2014